

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MONTGOMERY COUNTY, OHIO,

Plaintiff, : Case No. 3:22-cv-272
(Mont. Cty. Case No. 2020 CR 1992)

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

- VS -

LARRY NALLS,

Defendant. :

RESPONSE TO OBJECTION

Larry Nalls, Defendant in the above-captioned action, has filed what he captions an “Objection” (ECF No. 6) to the Order of Reference of this case to the undersigned (ECF No. 4), asking the District Judge to revoke that Order. The sole basis for the request is that I am a Defendant and Nalls is the Plaintiff in *Nalls v. Montgomery County Prosecutor, et al.*, Case No. 3:22-cv-243 which Nalls says creates a conflict of interest. While I am a Defendant in that case, it has not been referred to me. I agree that there would be a disqualifying conflict of interest if I were to be assigned judicial duties in that case.

On the other hand, if a judge could be disqualified from presiding in one case because he has been sued by the same plaintiff in another case, a plaintiff could easily engage in “forum shopping” simply by suing a judge whose decisions he did not like. It is common for judges of

this Court to preside in cases involving parties against whom they have ruled in other cases and the undersigned is unaware of any case in which this has been found to create a disqualifying conflict of interest.

Nalls also notes that I was referred the case of *Nalls v. State of Ohio, et al.*, Case No. 3:21-cv-238 in which I recommended dismissal with prejudice. Nalls asserts I displayed bias against him and favoritism toward the Defendants, whom Nalls refers to as my “colleagues.” I note that no judge has found any disqualifying bias or prejudice in my actions in that case and the assigned District Judge adopted my recommendation for dismissal.

Nalls claims that I am practicing law in that case. Not so. I have been prohibited from practicing law since July 2, 1977, when I became a judge and I have done nothing in that case or any other case which constitutes the practice of law.

Nalls’ Objection is without merit and should be overruled.

September 30, 2022.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party’s objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #

s/ *Michael R. Merz*
United States Magistrate Judge